

## INTRODUCTION: The Most Serious Problems Encountered by Taxpayers

IRC § 7803(c)(2)(B)(ii)(III) requires the National Taxpayer Advocate to submit an annual report to Congress that contains a summary of ten “Most Serious Problems” encountered by taxpayers.<sup>1</sup> While we use the methodology described below to identify the Most Serious Problems, the list remains inherently subjective in many respects.

### A. METHODOLOGY OF THE MOST SERIOUS PROBLEMS

The National Taxpayer Advocate is in a unique position to identify the most pressing problems that the IRS faces and that negatively impact taxpayer service and rights. Because TAS is an independent part of the IRS, it can serve as the advocate for the taxpayer and use the experience of its staff to identify taxpayer problems to make recommendations to improve the IRS from within the organization. TAS also works with hundreds of thousands of taxpayers and practitioners every year through its casework and outreach events, so it sees problems from an external perspective. TAS employees interact regularly with taxpayers and IRS employees to resolve taxpayers’ individual problems and make systemic fixes to widespread problems.

The National Taxpayer Advocate identifies potential Most Serious Problems through multiple channels. Trends in TAS’s casework, referrals from congressional offices, research studies completed by TAS and outside groups, advocacy projects worked by TAS’s Office of Systemic Advocacy, and findings from IRS taskforces and teams on which TAS participates often reveal issues. Additionally, the National Taxpayer Advocate hears directly from individuals, including IRS employees, taxpayers, tax practitioners, other external stakeholders, and through TAS’s Systemic Advocacy Management System (SAMS) and other channels.<sup>2</sup>

The National Taxpayer Advocate considers several factors in identifying, evaluating, and selecting the Most Serious Problems encountered by taxpayers. The ten issues in this year’s report are selected largely according to the following criteria:

- Impact on taxpayer rights;
- Number of taxpayers impacted;
- Financial impact on taxpayers;
- Visibility, sensitivity, and interest to stakeholders, Congress, and external indicators (*e.g.*, media);
- Barriers to tax law compliance, including cost, time, and burden;
- Taxpayer Advocate Management Information System (TAMIS) inventory data; and
- Emerging issues.

### B. TAXPAYER ADVOCATE MANAGEMENT INFORMATION SYSTEM

The identification of the Most Serious Problems reflects not only the mandates of Congress and the IRC but also TAS’s integrated approach to advocacy – using individual cases to detect trends and identifying systemic problems in IRS policy and procedures. TAS tracks individual taxpayer cases on its internal system, TAMIS. The top 25 case issues, listed in Appendix 1, reflect TAMIS receipts based on taxpayer contacts in fiscal year (FY) 2021, a period spanning October 1, 2020, through September 30, 2021.

## C. THE MOST SERIOUS PROBLEMS ENCOUNTERED BY TAXPAYERS IN 2021

For the 2021 annual report, the ten Most Serious Problems are as follows:

### 1. **PROCESSING AND REFUND DELAYS: Excessive Processing and Refund Delays Harm Taxpayers**

During 2021, tens of millions of taxpayers were forced to wait extraordinarily long periods of time for the IRS to process their tax returns, issue their refunds, and address their correspondence. More than 75 percent of individual income tax return filings resulted in refunds that millions of taxpayers rely on to pay their basic living expenses. Therefore, processing delays caused financial hardships for some taxpayers and extreme frustration for many more. At the close of the 2021 filing season, the IRS had 35.3 million returns awaiting manual processing. As the IRS is preparing to begin the 2022 filing season, it is poised to carry over millions of unprocessed returns and millions of pieces of taxpayer correspondence, resulting in even longer delays for taxpayers who have been patiently waiting for far too long. To add complexity, when taxpayers file their 2021 tax returns, millions who received Advance Child Tax Credit (AdvCTC) payments will have to reconcile the monthly advanced payments they received with the amounts for which they are eligible. Similarly, eligible taxpayers who did not receive some or all of the third round of stimulus payments, as authorized by the American Rescue Plan Act, will have to claim them as credits on their returns. Thus, the unprecedented processing and refund delays taxpayers experienced in 2021 could be as bad, and potentially worse, in 2022 if taxpayers do not file electronically or do not properly reconcile their monthly AdvCTC payments or the third stimulus payment with their 2021 return.

### 2. **IRS RECRUITMENT, HIRING, AND TRAINING: The Lack of Sufficient and Highly Trained Employees Impedes Effective Tax Administration**

The IRS's budget was reduced by nearly 20 percent in inflation-adjusted dollars from 2010 to 2021. From 2010 to 2020, the IRS lost over 33,000 full-time employees. Over the past year, the IRS faced several additional staffing-related challenges. In FY 2021, the IRS saw a spike in call volume resulting in the lowest telephone Level of Service on record, which it must address through a combination of measures, including additional online capabilities and personnel. Staffing challenges also impacted all aspects of IRS operations and are negatively affecting taxpayers and tax administration. From pre-filing services to return processing and exam and collection activities, taxpayers are not receiving the Level of Service they need and deserve. The IRS can and must improve internal hiring and recruitment processes. However, even if the IRS perfects its internal processes, external limitations on the IRS still pose challenges difficult to overcome without additional support and flexibilities provided by Congress, the Department of the Treasury, the Office of Personnel Management, and the National Treasury Employees Union. Moreover, once the IRS hires employees, they will need significant training, which takes time and requires dedicated resources. The IRS will need sustained multiyear funding and more hiring flexibilities to build the workforce of the future.

### 3. **TELEPHONE AND IN-PERSON SERVICE: Taxpayers Face Significant Challenges Reaching IRS Representatives Due to Longstanding Deficiencies and Pandemic Complications**

IRS phone service has gone from bad to worse during COVID-19, with calls reaching an all-time high and Level of Service falling to an all-time low. This inadequate phone service disadvantages taxpayers and harms tax compliance. The IRS, however, is attempting to implement meaningful technological improvements in accordance with the goals of the Taxpayer First Act and is hoping to hire additional customer service representatives. Sufficient funding from Congress and effective execution of IRS plans will go a long way toward improving the quality of customer service.

#### **4. TRANSPARENCY AND CLARITY: The IRS Lacks Proactive Transparency and Fails to Provide Timely, Accurate, and Clear Information**

The IRS is not consistently transparent and does not provide clear and timely information about what taxpayers need to know, leaving many confused and frustrated. For example, taxpayers could not access the status details of IRS operations, such as a filing season backlog, delayed refunds, returns pulled for inconsistencies, or amended return processing delays. Further, taxpayers are confused by unclear notices and IRS guidance, and they don't always understand the IRS's reasons for its decisions, as a rationale is not always provided. TAS recommends that the IRS take additional steps to be proactively transparent by providing timely, clear-cut, and understandable "need-to-know" taxpayer information, whether it addresses filing season issues or updates general guidance or other administrative matters.

#### **5. FILING SEASON DELAYS: Millions of Taxpayers Experienced Difficulties and Challenges in the 2021 Filing Season**

The 2021 filing season can be described as the perfect storm; it was one of the most challenging filing seasons experienced by tens of millions of taxpayers. The COVID-19 pandemic highlighted serious problems with the IRS's reliance on antiquated systems and processes, such as having to manually process millions of tax returns, which stymied tax administration and produced historically low Levels of Service. On May 17, 2021, the postponed filing season due date, over 35 million returns were still awaiting manual processing. Millions of taxpayers did not receive refunds timely or updates and adequate information regarding their delays, and it was extremely difficult to reach a customer service representative on the toll-free lines. The 2021 filing season caused tremendous confusion and frustration for taxpayers, infringed on taxpayer rights, and eroded taxpayer trust and confidence in our tax system.

#### **6. ONLINE ACCOUNTS: IRS Online Accounts Do Not Have Sufficient Functionality and Integration With Existing Tools to Meet the Needs of Taxpayers and Practitioners**

Every day, taxpayers use their computers or mobile devices to access financial accounts. Taxpayers and tax professionals have come to expect secure and convenient online access to their personal and client information, and they expect and deserve the IRS to provide similar access. The severe disruption in IRS operations resulting from the COVID-19 pandemic forced the IRS to deploy a number of online services and capabilities. Unfortunately, many of these services were designed as standalone portals with limited and specific functionality – the IRS has yet to develop and adopt a one-stop solution for online and digital services. A truly robust IRS online account system would transform tax administration.

#### **7. DIGITAL COMMUNICATIONS: Digital Communication Tools Are Too Limited, Making Communication With the IRS Unnecessarily Difficult**

The IRS has faced unprecedented challenges in the past year that have created an urgency to provide easy-to-use digital communication services while simultaneously facing budget and human resource limitations. To address these challenges and to improve productivity and efficiency, digital communication tools are vital for the IRS to ably service taxpayers. During the pandemic, the IRS made it easier for some taxpayers to do things such as securely sign and submit documents electronically, receive answers to questions through text chat, and access limited services through a mobile device. But the IRS and taxpayers would benefit from prioritizing and expanding those tools at a more rapid pace. Taxpayers who wish to use digital communication services should have expanded access to information and transactional interactions with the IRS. When digital communication tools are easy to find, understand, and use, they help ensure the taxpayers' *right to*

*quality service* through clear and easily understandable communications. However, the IRS must also maintain mail, telephone, and in-person service options for those who are not able or prefer not to communicate digitally.

## **8. E-FILING BARRIERS: Electronic Filing Barriers Increase Taxpayer Burden, Cause Processing Delays, and Waste IRS Resources**

During the 2021 filing season, about 91 percent of individual returns and about 69 percent of business returns were e-filed through October 23, 2021. While e-filing significantly benefits both taxpayers and the IRS, the IRS still receives a significant number of paper-filed returns. Paper returns require manual processing, which leads to processing delays and potential transcription errors. In contrast, e-filing significantly benefits taxpayers due to reduced transcription errors and quicker return processing and refund turnaround times. The IRS benefits because it takes fewer resources to process e-filed returns, which frees up much-needed resources to perform other filing season processing tasks, including processing paper returns filed by taxpayers who do not have the ability or desire to e-file. The inability to e-file tax forms, schedules, attachments, and other documents negatively impacts both taxpayers and the IRS. The IRS should remove barriers, think outside the box, and provide all taxpayers the option to e-file their returns to lessen the delays and burdens associated with paper returns and to free up resources for those taxpayers who file by paper.

## **9. CORRESPONDENCE AUDITS: Low-Income Taxpayers Encounter Communication Barriers That Hinder Audit Resolution, Leading to Increased Burden and Downstream Consequences for Taxpayers, the IRS, TAS, and the Tax Court**

In FY 2019, more than half of the taxpayers subject to correspondence audits had total positive incomes below \$50,000, and most of these low-income taxpayers claimed the Earned Income Tax Credit (EITC). These taxpayers often face particular challenges navigating the correspondence audit process. The IRS correspondence audit process is structured to expend the least amount of resources to conduct the largest number of examinations – resulting in the lowest level of customer service to taxpayers having the greatest need for assistance. Correspondence audits produce the lowest agreement rate, the highest no-response rate, and the highest volume of cases assessed by default. The resulting high volume of unagreed cases leads to use of downstream resources for resolution activities that include audit reconsideration, appeals, litigation, and involvement of other IRS functions such as TAS and Collection. By devoting additional resources at the beginning of the correspondence audit process, the IRS could provide an appropriate level of customer service during the audit, avoiding unnecessary downstream costs and reducing the burden on our nation's least affluent and most vulnerable taxpayers.

## **10. COLLECTION: IRS Collection Policies and Procedures Negatively Impact Low-Income Taxpayers**

Many taxpayers have difficulty paying their tax liabilities. Low-income taxpayers in particular struggle to balance paying their tax debts with paying their basic living expenses. The IRS offers collection alternatives for financially struggling taxpayers, but the alternatives are underutilized. Some taxpayers seeking installment agreements do not receive the relief from user fees Congress intended because IRS procedures for identifying low-income taxpayers are flawed. Requests for offers in compromise have declined in seven of the past eight years. Currently not collectible-hardship status and offset bypass refund relief are unnecessarily difficult to obtain. The IRS continues to issue automated collection notices despite backlogs in processing taxpayer correspondence and amended returns, and some taxpayers are surprised to learn they cannot dispute the merits of their underlying liabilities at a collection due process hearing because IRS collection notices do not adequately explain their rights.

### Endnotes

- 1 In previous years, Congress tasked the National Taxpayer Advocate with identifying at least the 20 most serious problems impacting taxpayers. This change was the result of the passage of the Taxpayer First Act, Pub. L. No. 116-25, 133 Stat. 981 (2019).
- 2 SAMS is a database of systemic issues and information reported online to TAS by IRS employees and members of the public. IRS, Systemic Advocacy Management System (SAMS), <https://www.irs.gov/advocate/systemic-advocacy-management-system-sams>. TAS reviews and analyzes the submissions and determines a course of action, which can include information-gathering projects, immediate interventions, and advocacy projects. Internal Revenue Manual 1.4.13.4.9.2, Systemic Advocacy Management System (SAMS) (July 16, 2021).